(3)

O.S. 102

IN THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

W.P. No.3249/2004

PETITIONER [PLAINTIFF] : Subhash Chand Agrawal,
S/o Shri Mange Lal Agrawal,
Occupation- Business,
R/o Dabhara Road, Kharsia,
Tehsil- Kharsia, Distt. Raigarh (C.G.).

VERSUS

RESPONDENTS [DEFENDANTS]

1. Ganesh Ram Agrawal,
S/o Ram Kumar Agrawal,
(Attorney) Meera Devi Agrawal.

2. Meera Devi Agrawal,
W/o Ganesh Ram Agrawal,
Both R/o Dabhara Road, Kharsia,
Tehsil- Kharsia, District Raigarh.

P.R. No. 3263/04
Presented by Shri Y.V.R. Rao
dated 21-9-04

WRIT PETITION UNDER ARTICLE 227 OF CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(17)

आदेश पत्रक

मामला क्रमांक W.P.NO.3249/2004 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

23/09/2004

Shri S.N. Nande, counsel for the petitioner.

The petitioner/plaintiff has preferred this writ petition under Article 227 of the Constitution of India, being aggrieved by the order dated 28/08/2004 passed by the learned Additional Civil Judge, Class-I, Raigarh, whereby the petitioner's applications filed under Order 16, Rule 1 and 2 and Order 17, Rule 1 of the Code of Civil Procedure, were rejected.

I have heard learned counsel for the petitioner on admission of this petition.

Brief facts leading to filing of this writ petition are that the petitioner herein filed a Civil Suit against the respondents for declaration and injunction. After filing of the written statements issues were framed and the matter was fixed for evidence of the plaintiff.

From the perusal of the impugned order dated 28/08/2004, it reveals that no list of witnesses was filed on behalf of the plaintiff and for the first time the matter was fixed for evidence of the plaintiff on 26/04/2001. Thereafter, as appears from the impugned order right from 11/12/2002 to 28/08/2004 nine adjournments were granted for producing the evidence, but the petitioner herein except examining himself failed to produce the remaining evidence and ultimately the petitioner moved an application under Order, 16 Rule 1 of the C.P.C., to summon the witnesses. Since no list of witnesses was filed by the plaintiff and already more than two years time was taken by the petitioner to

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(18)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	produce the evidence, which he failed to produce, then the applications of the plaintiff were rejected. As per amended provision of the Order 17, Rule 1 of the C.P.C., for producing the evidence of the plaintiff more than three adjournments cannot be granted. Petitioner herein took more than nine adjournments. Even then he failed to produce the evidence. Having heard learned counsel for the petitioner and having regard to the facts and circumstances of the case, I am of the opinion that the trial Court has not committed any illegality or impropriety by passing the impugned order and the petitioner has failed to raise the ground which warrants the exercise of the jurisdiction by this Court under Article 227 of the Constitution of India, therefore, the writ petition is dismissed at the admission stage itself. In view of this order, M.W.P.No.2841/2004 and I.A.No.6913/2004 stand disposed of. **Sd/-** **L.C.Bhadoo** **Judge**	

Raju

Satish